

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DESIGNER GREETINGS, INC.,

Plaintiff,

MEMORANDUM & ORDER
14-CV-5936 (JS) (SIL)

-against-

HARRY SHAH d/b/a 50% OFF CARDS, JAY
CARDS & GIFTS 2001, INC., and
SUNNY ENTERPRISES OF 2001 INC.,

Defendants.

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APPEARANCES

For Plaintiff: Thomas A. O'Rourke, Esq.
Bodner & O'Rourke
425 Broadhollow Road, Suite 108
Melville, NY 11747

For Defendants: No appearance

SEYBERT, District Judge:

Presently pending before the Court is Magistrate Judge Steven I. Locke's Report and Recommendation dated January 31, 2017, (the "R&R," Docket Entry 24), recommending that this Court grant Plaintiff's motion for an accounting, damages, costs, and attorneys' fees. For the following reasons, the Court ADOPTS Judge Locke's R&R in its entirety.

BACKGROUND

On October 9, 2014, Plaintiff commenced this action against Defendants asserting claims under the Lanham Act. (See generally Compl.) On March 2, 2015, Plaintiff filed a motion seeking a default judgment and an award of damages, costs, and/or

attorneys' fees. (Docket Entry 12.) On March 15, 2016, the Court adopted Judge Locke's Report and Recommendation dated November 25, 2015, granted Plaintiff's request for a default judgment, and denied Plaintiff's request for damages, costs, and attorneys' fees without prejudice and with leave to replead. (Order, Docket Entry 18, at 4-5.)

On March 25, 2016, Plaintiff filed its pending motion seeking an accounting of Defendants' profits, and an award of damages, costs, and attorneys' fees. (Pl.'s Mot., Docket Entry 19.) On October 13, 2016, the Court referred Plaintiff's motion to Judge Locke for a report and recommendation. (Referral Order, Docket Entry 23.) On January 31, 2017, Judge Locke issued his R&R recommending that Plaintiff's motion be granted. (See generally R&R.) Particularly, Judge Locke recommends that the Court award Plaintiff monetary damages of \$858,172.00, attorneys' fees of \$14,444.50, and \$660.00 in costs for a total award of \$873,276.50. (R&R at 9.)

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b) (1)(C). If no timely objections have been made, the "court need only satisfy itself that there is no clear error on the face of

the record.” Urena v. New York, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (internal quotation marks and citation omitted).

Objections were due within fourteen (14) days of service of the R&R. The time for filing objections has expired, and no party has objected. Accordingly, all objections are hereby deemed to have been waived. Upon careful review and consideration, the Court finds Judge Locke’s R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

CONCLUSION

For the foregoing reasons, the Court ADOPTS Judge Locke’s R&R (Docket Entry 24) in its entirety. Plaintiff’s motion (Docket Entry 19) is GRANTED and Plaintiff is awarded \$858,172.00 in monetary damages, \$14,444.50 in attorneys’ fees, and \$660.00 in costs. Plaintiff is directed to serve Defendants with a copy of this Memorandum and Order within fourteen (14) days and file proof of service on ECF.

The Clerk of the Court is directed to enter judgment accordingly and mark this case CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: March 10, 2017
Central Islip, New York